

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIA VECCHIO, individually and on behalf of all :
others similarly situated, :

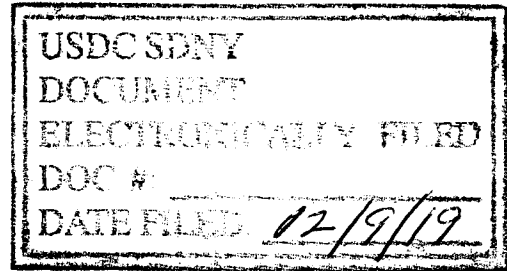
Plaintiff, :

-against- :

QUEST DIAGNOSTICS INC., EXAMONE :
WORLD WIDE, INC., and EXAMONE LLC, :

Defendants. :
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KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE



ORDER

16-CV-5165 (ER)(KNF)

Based on the November 26, 2019 telephonic conference the Court had with the parties and the parties' post-conference written submissions, it appears that the plaintiff was not diligent in supplying her expert witness with the report prepared by the defendants' expert witness. This lack of diligence on the plaintiff's part militates against a finding that good cause exists to modify the outstanding scheduling order. However, the defendants have communicated to the Court the importance that having the opportunity to depose the plaintiff's expert has to their ability to defend themselves fairly in this action. This persuades the Court that good cause for modifying the scheduling order exists, and that the modification will ensure that a just determination of the action will attend. See Fed. R. Civ. P. 1.

Supplementing a disclosure that a party determines is incomplete or incorrect is mandated by Fed. R. Civ. P. 26(e). Whether the report of the plaintiff's expert is truly incomplete or incorrect or whether, as the defendants contend, the plaintiff simply "wants a do-over" with respect to her expert's report – which may prompt the defendants to move to strike that

supplemental document – remains to be seen. In any event, at this juncture, owing to the mandatory nature of Fed. R. Civ. P. 26(e), the defendants' request, that the Court bar the plaintiff from supplementing the report of her expert, cannot be granted.

The plaintiff shall serve the supplemental report of her expert on or before December 18, 2019. Expert witness depositions shall be completed on or before January 21, 2020. Any motion to decertify or any dispositive motion shall be filed on or before February 7, 2020. This order resolves Docket Entry No. 3162.

Dated: New York, New York
December 9, 2019

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE